



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

July 20, 2004

Mr. Ken Schiavone Sr.
P.O. Box 216
Silver Lake, New Hampshire 03875

CERTIFIED MAIL (7099 3400 0003 0688 1938)
RETURN RECEIPT REQUESTED
NOTICE OF PAST VIOLATION

RE: Non-Conforming Open Burning

Dear Mr. Schiavone:

On March 11, 2004, the New Hampshire Department of Environmental Services, Air Resources Division ("DES") was notified by Jim Coogan, the Madison Fire Warden, that non-conforming materials had been burned at 42 Route 113 in Silver Lake, New Hampshire (the "Property"). Fire Warden Coogan reported that material including painted wood had been burned.

On March 12, 2004, DES personnel met with you and conducted an inspection at the Property in order to determine conformance with the N.H. Code of Administrative Rules, Env-A 100 *et seq.*, specifically, Env-A 1000, *Prevention, Abatement, and Control of Open Source Air Pollution* and RSA 125-C. During the inspection, DES personnel observed and photographed charred painted wood, charred particleboard, and steel belts from a burned tire, charred stumps, charred telephone books, carpeting, and aluminum siding and charred household trash in the burn pile on the Property. As a result of the inspection and information gathered, DES has determined that violations occurred.

During the inspection on March 12, 2004, you told the DES inspector that you were unaware of how the non-conforming material had gotten into the brush pile on the Property. Fire Warden Coogan, however, reported that he had denied you a burn permit for this brush pile ten months prior, due to the non-conforming material he had observed in the pile at that time.

The purpose of this letter is to notify you of the violations discovered, as well as the requirements surrounding open burning, so that you can prevent future violations. The specific violations are as follows:

- Env-A 1001.05 outlines the type of burning that is permissible without authorization from DES. Specifically, Env-A 1001.05(d) allows periodic on-site burning of brush by the landowner and allows the burning of untreated wood from the construction or demolition of a building. The burning of materials other than brush and untreated wood is a violation of Env-A 1000.

Env-A 1001.03(a) defines "brush" as tree tops, limbs, saplings, and tree cuttings that are five inches in diameter or less.

Env-A 1001.03(k) defines "untreated wood" as any timber, board, or sawn dimensional lumber, which has not been treated, coated, or preserved.

Env-A 1001.07 provides that no tires, tubes, or any portion thereof shall be burned in the ambient air at any time in the state for any reason.

RSA 125-N:4 and Env-A 1001.06 provide for the absolute prohibition of residential open burning of combustible domestic waste.

Since the burning of non-conforming materials has ceased, DES believes that no further action is required at this time in response to the listed violations. However, in the event that additional violations are identified, DES may take action, including issuing an administrative order, seeking administrative fine, and/or referring this matter to the New Hampshire Department of Justice for civil and/or criminal penalties.

If you believe that DES has cited these violations in error, or have questions regarding these matters, please contact Joseph Ritz at (603) 271-1391, Air Resources Division, Compliance Bureau. A current copy of the Air Resource Division rules can be obtained from the DES website at <http://www.des.state.nh.us/ard/ardrules.htm> or by contacting the Public Information Center at (603) 271-2975.

Sincerely,



Pamela G. Monroe
Compliance Bureau Administrator
Air Resources Division

PGM/jwr

Enc. Env-A 1001 *Open Burning*

cc: R. Kurowski, EPA Region 1
G. Hamel, Legal Unit
M. Guilfooy, NHDES-WMD
B. Boyd, DRED Forest Fire Ranger
J. Coogan, Madison Forest Fire Warden
J. Arruda, Madison Board Chairman of Selectmen
T. Kneelly, Property Owner
AFS #330039777